

AMENDED IN SENATE JANUARY 13, 2006

AMENDED IN SENATE JANUARY 4, 2006

SENATE BILL

No. 433

Introduced by Senator Simitian

February 17, 2005

An act to amend Section 1798.90.1 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 433, as amended, Simitian. Personal information: driver's licenses.

Existing law authorizes any business to swipe in any electronic device a driver's license or identification card issued by the Department of Motor Vehicles for verification and other specified purposes. It is a misdemeanor to retain or use any of the information obtained by that electronic means for any other purpose.

This bill would require a business to obtain the express consent of the holder to swipe or electronically read the information stored electronically in a driver's license or identification card issued by the Department of Motor Vehicles using any electronic device for verification and other specified purposes. By expanding the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1798.90.1 of the Civil Code is amended to read:

1798.90.1. (a) (1) Any business may, upon receiving the express consent of the holder, swipe or electronically read the information stored electronically in a driver's license or identification card issued by the Department of Motor Vehicles using any electronic device for the following purposes:

(A) To verify age or the authenticity of the driver's license or identification card.

(B) To comply with a legal requirement to record, retain, or transmit that information.

(C) To transmit information to a check service company for the purpose of approving negotiable instruments, electronic funds transfers, or similar methods of payments, provided that only the name and identification number from the license or the card may be used or retained by the check service company.

(D) To collect or disclose personal information that is required for reporting, investigating, or preventing fraud, abuse, or material misrepresentation.

(2) *The express consent requirement of paragraph (1) is satisfied if a business swipes a driver's license or identification card that was voluntarily given to the business by the holder of the license or card.*

(3) A business may not retain or use any of the information obtained by that electronic means for any purpose other than as provided herein.

(b) As used in this section, "business" means a proprietorship, partnership, corporation, or any other form of commercial enterprise.

(c) A violation of this section is a misdemeanor punishable by imprisonment in a county jail for no more than one year, by a fine of no more than ten thousand dollars (\$10,000), or by both *that imprisonment and fine.*

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the

1 penalty for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition of a
3 crime within the meaning of Section 6 of Article XIII B of the
4 California Constitution.

O